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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. R-2064

13 KEN HIDALGO
10932 Morrison Street Apt. #212
14 North Hollywood, California 91601

A C C U S A T I O N

15 Respiratory Care Practitioner License No. 24669

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

20 1. Stephanie Nunez (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Respiratory Care Board of California (Board),
22 Department of Consumer Affairs.

23 2. On or about September 19, 2005, the Board issued Respiratory Care
24 Practitioner License Number 24669 to Ken Hidalgo (Respondent). This license was in full force
25 and effect at all times relevant to the charges brought herein and will expire on May 31, 2008,
26 unless renewed.

27 JURISDICTION

28 3. This Accusation is brought before the Board under the authority of the

1 following laws. All section references are to the Business and Professions Code (Code) unless
2 otherwise indicated.

3 4. Section 3710 of the Code states: “The Respiratory Care Board of
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
5 8.3, the Respiratory Care Practice Act].”

6 5. Section 3718 of the Code states: “The board shall issue, deny, suspend,
7 and revoke licenses to practice respiratory care as provided in this chapter.”

8 6. Section 3750 of the Code states:

9 “The board may order the denial, suspension or revocation of, or the imposition of
10 probationary conditions upon, a license issued under this chapter, for any of the following
11 causes:

12 “... .

13 “(d) Conviction of a crime that substantially relates to the qualifications,
14 functions, or duties of a respiratory care practitioner. The record of conviction or a
15 certified copy thereof shall be conclusive evidence of the conviction.

16 “... .”

17 7. Section 3752 of the Code states:

18 “A plea or verdict of guilty or a conviction following a plea of nolo contendere
19 made to a charge of any offense which substantially relates to the qualifications,
20 functions, or duties of a respiratory care practitioner is deemed to be a conviction within
21 the meaning of this article. The board shall order the license suspended or revoked, or
22 may decline to issue a license, when the time for appeal has elapsed, or the judgment of
23 conviction has been affirmed on appeal or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a subsequent order under Section
25 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to
26 enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the
27 accusation, information, or indictment.”
28

11. Section 3753.7 of the Code states:

“For purposes of the Respiratory Care Practice Act, costs of prosecution shall include attorney general or other prosecuting attorney fees, expert witness fees, and other administrative, filing, and service fees.”

12. Section 3753.1, subdivision (a) of the Code states:

“An administrative disciplinary decision imposing terms of probation may include, among other things, a requirement that the licensee-probationer pay the monetary costs associated with monitoring the probation.”

CAUSE FOR DISCIPLINE

(Conviction of a Crime)

13. Respondent is subject to disciplinary action under Code sections 3750, subdivision (d), 3752 and 490, and California Code of Regulations, Title 16, section 1399.370, subdivision (c), in that he was convicted of a crime substantially related to the qualifications, functions or duties of a respiratory care practitioner. The circumstances are as follows:

A. On or about January 26, 2006, a Glendale police officer made an enforcement stop after he observed Respondent speeding on the freeway. Upon contact with Respondent, the officer noticed that his movements were abnormally slow, his eyes were bloodshot and watery, and there was a strong odor of alcohol coming from his vehicle. When the officer asked him if he had been drinking, Respondent stated that he had about three beers. Respondent failed to successfully complete the field sobriety tests. He refused to take a breath or blood test.

B. On or about January 26, 2006, in Los Angeles County Superior Court Complaint No. 6GN00629, Respondent was charged with driving under the influence of alcohol, in violation of Vehicle Code section 23152, subdivision (a), a misdemeanor (Count1).

C. On or about January 26, 2006, pursuant to a negotiated plea agreement, Respondent was convicted upon his plea of nolo contendere to driving under the influence of alcohol (Count 1). Proceedings were suspended. Respondent was placed on

1 probation for four years with the following terms and conditions, among others: serve 6
2 days in county jail (with credit for 1 day), pay fines and assessments in the amount of
3 \$2,091.36, and complete an 18-month licensed second-offender alcohol program.

4 DISCIPLINE CONSIDERATIONS

5 14. To determine the degree of discipline, if any, to be imposed on
6 Respondent, Complainant alleges that on or about March 3, 2005, in a prior criminal proceeding
7 in Los Angeles County Superior Court Complaint No. 5GL00505, pursuant to a negotiated plea
8 agreement, Respondent was convicted upon his plea of nolo contendere to the amended charge of
9 reckless driving involving alcohol, in violation of Vehicle Code section 23103, subdivision (a), a
10 misdemeanor. The record of the criminal proceeding is incorporated as if fully set forth.

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Respiratory Care Board issue a decision:

14 1. Revoking or suspending Respiratory Care Practitioner License Number
15 24669 issued to Ken Hidalgo;

16 2. Ordering Ken Hidalgo to pay the Respiratory Care Board the costs of the
17 investigation and enforcement of this case, and if placed on probation, the costs of probation
18 monitoring; and,

19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: March 26, 2007

21
22 Original signed by Liane Zimmerman for:
23 STEPHANIE NUNEZ
24 Executive Officer
25 Respiratory Care Board of California
26 Department of Consumer Affairs
27 State of California
28 Complainant